United Nations A/HRC/25/NGO/3

General Assembly

Distr.: General
19 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[05 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11064

1411064

Please recycle

The Human Rights Council must help Sri Lankan victims of human rights violations: their government is protecting the perpetrators

Thousands of victims of human rights violations and their families have been denied justice, truth and reparation, as the Sri Lankan government concentrates its efforts and resources on blocking a credible international investigation of alleged war crimes and crimes against humanity committed during the armed conflict between government forces and the Liberation Tigers of Tamil Eelam that ended in 2009.

Long-standing and credible allegations of violations of international law by the Sri Lankan government forces and the LTTE during the armed conflict, some amounting to war crimes or crimes against humanity, remain unanswered. There is substantial evidence that Sri Lankan government forces committed enforced disappearances, extrajudicial executions, intentionally shelled civilians and protected areas such as hospitals, and blocked food and medicine from reaching civilians trapped by the fighting. The LTTE is accused of using civilians as human shields, killing individuals who tried to escape and recruiting child soldiers. The Sri Lankan government continues to deny credible allegations of crimes under international law committed by its forces and to resist calls for independent international investigation, including of senior officers allegedly responsible, several of whom remain in positions of authority.

Human Rights Council (HRC) Resolution 19/2 of 2012 called on Sri Lanka to ensure accountability for alleged violations of international law. Resolution 22/1 of 2013 expressed concern over reports of a wide range of continuing violations of human rights, reiterated the demand for accountability and noted the call of the UN High Commissioner for Human Rights (HCHR) for an "independent and credible international investigation into alleged violations of international human rights law and international humanitarian law" in Sri Lanka. It also called on the Government of Sri Lanka "to take all necessary additional steps to fulfill its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans."

In her update to the HRC on 24 September 2013 on implementation of Resolution 22/1, the High Commissioner encouraged the Government to use the time before March 2014 "to show a credible national process with tangible results, including the successful prosecution of individual perpetrators, in the absence of which … the international community will have a duty to establish its own inquiry mechanisms." (A/HRC/24/CRP.3/Rev.1, para 18). Amnesty International believes it is high time to establish such an international mechanism.

The Government of Sri Lanka has not initiated a credible investigative process and has not made demonstrable progress towards prosecution of alleged perpetrators. It continues to rely on forces allegedly responsible for serious violations to police themselves. In 2013, an army court of inquiry exonerated the Sri Lankan military for civilian casualties in the last stage of military operations, concluding that any casualties that occurred were the fault of the LTTE. The report remains unpublished. A second army inquiry into alleged extrajudicial executions of individuals who surrendered to or were captured by the Sri Lankan military in the final days of conflict was initiated in March 2013, but by the end of 2013 investigators had not even interviewed witnesses other than army field commanders.[1]

In 2010 many family members provided testimony to the Lessons Learned and Reconciliation Commission (LLRC)."[2] that their relatives disappeared after being taken into the custody of government forces or the LTTE. Ahead of the visit to Sri Lanka by the HCHR in August 2013, President Rajapaksa ordered an ad hoc commission of inquiry to investigate

[1] National Plan of Action for the Implementation of LLRC Recommendations -Responsibilities by Thematic Area, Nov, 2013, page 2.

[2] "Joint Civil Society Submission to Ms Navi Pillay", 1 September 2013, http://www.eyesrilanka.com/2013/09/01/joint-civil-society-submission-to-ms-navi-pillay/, accessed 31 January 2014

abduction and disappearance cases from the northern and eastern provinces between 10 June 1990 and 19 May 2009. It had reportedly received over 11,000 complaints by the end of 2013. While the process will again raise the hopes of people desperate for information about the whereabouts of their missing relatives, it is unlikely to provide them with satisfactory answers, let alone justice. The Commission is the 10th to examine alleged enforced disappearances since the early 1990s.[3] Like its predecessors, it lacks financial and political independence and does not guarantee effective witness protection. Very few perpetrators of human rights violations identified by witnesses before previous commissions were ever prosecuted and most of the recommendations to prevent future violations have been ignored.[4] Meanwhile, those campaigning for effective mechanisms to establish the truth about disappearances are subjected to attacks, such as the assaults on families of the disappeared (carried out in sight of the police) in Trincomalee on 10 December 2013. [5]

A domestic civil society submission to the HCHR presented during her visit in August highlighted concern for "the selective adoption and laggardly implementation of the constructive recommendations contained in the final report of the Government of Sri Lanka appointed [LLRC]."[6] The absence of credible government action to end Sri Lanka's longstanding climate of impunity has allowed serious violations of human rights to continue. Credible allegations of extrajudicial executions in police custody are again on the rise, and torture is reported frequently.

Activists and journalists -- especially those advocating accountability have been threatened, arrested and assaulted; religious minorities and their places of worship continue to be the target of attacks by nationalist Buddhist protestors with alleged government links. Police have failed to intervene to prevent violence; press reports quoting religious heads of these places of worship indicate that local officials have ordered several affected mosques and churches to close.

A persistent pattern of arrests and harassment of those challenging official denials of human rights violations has occurred around successive HRC sessions as Sri Lankan authorities have attempted to prevent information about human rights violations from reaching the UN and have tried to discredit activists who speak out about the violations. Harassment, threats and arrest of activists were also reported around the Commonwealth Heads of Government Meeting in Colombo in November 2013. None of the incidents known to Amnesty International have been effectively investigated, and no prosecutions have been initiated.

Eight years on, no one has been held accountable for the January 2006 extrajudicial executions of five students in Trincomalee by Sri Lankan security personnel. On 14 October 2013, the Trincomalee High Court granted bail to 12 Special Task Force personnel who had been arrested in connection with the killings shortly before the HCHR visited Sri Lanka. These suspects were also arrested in 2006 but then released, supposedly for lack of evidence. Their commanding officer, named by several witnesses and in numerous reports as having been present during or ordering the attack, has never been arrested. The case has been the subject to a protracted preliminary ("non-summary") inquiry in the Trincomalee Magistrates' Court, which started on 9 September 2013.

No one has been arrested in connection with the killing of 17 aid workers with Action Contre La Faim in August 2006 despite credible reports identifying service personnel allegedly responsible and repeated government claims that police were investigating.

The government's consistent intolerance of dissent and failure to ensure justice in even the most publicized and well documented cases underscores the urgent need for an independent international investigation and monitoring, regardless of any domestic process.

---

[3] See, "A list of Commissions and Committees appointed by the GoSL (2006- 2013)," Centre for Policy Alternatives, Sri Lanka,
http://www.cpalanka.org/a-list-of-commissions-and-committees-appointed-by-gosl-2006-2013/

[4] Amnesty International, Sri Lanka: Twenty years of make-believe. Sri Lanka's Commissions of Inquiry, June 2009, http://amnesty.org/en/library/info/ASA37/005/2009/en

[5] BBC, Sri Lanka rally to protest against disappearances. http://www.bbc.co.uk/news/world-asia-5323892

[6] "Joint Civil Society Submission to Ms Navi Pillay", 1 September 2013,
http://www.eyesrilanka.com/2013/09/01/joint-civil-society-submission-to-ms-navi-pillay/, accessed 31 January 2014

Amnesty International urges the HRC to ensure:

- an independent international investigation into allegations of crimes under international law committed by Sri Lankan government forces and allied armed groups as well as by the LTTE. Where sufficient admissible evidence exists, the international community must ensure that those suspected of the crimes are prosecuted in genuine proceedings in full conformity with international standards for fair trial;

- ongoing international monitoring of the human rights situation in Sri Lanka, including of the effectiveness of any domestic judicial or other processes; and

- strengthened UN measures to prevent intimidation or reprisals by or tolerated by the Sri Lankan government against individuals who seek to cooperate or have cooperated with the UN, its representatives and mechanisms in the field of human rights.

Amnesty International reiterates its call to the Government of Sri Lanka to:

- Ensure that all allegations of crimes under international law are fully investigated and, where sufficient admissible evidence exists, those suspected of the crimes are prosecuted in genuine proceedings before independent and impartial courts that comply with international standards for fair trial;

- Ensure the protection of the rights to freedom of expression, freedom of peaceful assembly and freedom of association, and demonstrate unequivocally that harassment, intimidation and attacks against individuals or groups of individuals exercising those rights will not be tolerated, regardless of the opinions such individuals hold and express, and regardless of the position or political affiliation of the suspected perpetrator;

- Take all measures necessary to end attacks on minority businesses and places of worship and punish attackers in accordance with the law; and

- Cooperate fully with the UN special procedures including by responding positively to their outstanding requests to visit Sri Lanka and by providing them with full access.